

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHARLES DEVON GARRETT,

Petitioner,

v.

SEAN MOORE,

Respondent.

Case No. 1:22-cv-00899-JLT-HBK (HC)

ORDER DENYING PETITIONER'S
MOTION FOR EVIDENTIARY HEARING

(Doc. No. 47)

Before the court is Petitioner's motion for an evidentiary hearing. (Doc. No. 47). Petitioner, a state prisoner, has pending a pro se third amended petition for writ of habeas corpus filed under 28 U.S.C. § 2254. (Doc. No. 42). Petitioner requests an evidentiary hearing "to develop additional facts in support of his claim of judicial bias as well as develop [sic] any additional facts necessary to prove 'cause and prejudice' to the purported procedural default the Respondent [alleges] Petitioner committed." (Doc. No. 47).

Evidentiary hearings are granted only under limited circumstances in habeas proceedings. *See* 28 U.S.C. § 2254(e)(2)(A)(ii). Although Respondent has filed an answer, and Petitioner has filed a reply, the Court has not yet reviewed the pleadings. The Court will review the briefing and make findings and recommendations in due course. If the Court determines that an evidentiary hearing is warranted, it will schedule one at that time. *See* Rules Governing Section

2254 Cases, R. 8(a).

Accordingly, it is ORDERED:

Petitioner's motion for an evidentiary hearing and for appointment of counsel (Doc. No. 47) is DENIED without prejudice.

Dated: July 24, 2023


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE